
(2011) 01 KAR CK 0021
In the Karnataka High Court
Case No : M.F.A. No. 10349 of 2008

Papanaika

APPELLANT

Vs

National Ins. Co. Ltd. and H. Kadir

RESPONDENT

Date of Decision : 20-01-2011

Acts Referred:

Citation : (2011) 01 KAR CK 0021

Hon'ble Judges : A.S. Bopanna, J

Bench : Single Bench

Advocate : Spoorthy Hegde N., for D.R. Nagaraj, for the Appellant; A.C. Bhavya, for M.U. Poonacha, for the Respondent

Judgement

A.S. Bopanna, J.—The claimant in MVC. No. 913/05 is before this Court seeking enhancement of compensation as against the sum awarded by the Tribunal.

2. Heard the learned Counsel for the parties and perused the appeal papers.

3. The facts relating to the accident having occurred on 20.2.2006 and the claimant having suffered injuries in the accident are not in dispute. The nature of the injuries suffered in the accident is established by the documents, which were produced as Exs.P24 to 26. The claimant had suffered fracture of femur and other injuries. Insofar as the injuries, detailed discussion is not called for inasmuch as the disability has been assessed by the Tribunal at 15% and the same has been reckoned for the purpose of calculation in respect of which there is no challenge and the same is appropriate. The question however is with regard to the appropriate multiplier and the income to be reckoned for the purpose of calculation of compensation under the head of loss of future income. The appropriate multiplier would be 15 and insofar as the income, the Tribunal has reckoned only at Rs. 3,000/- per month in the absence of documents. The counsel for the claimant contended that he was working as a tailor. However, neither the avocation nor the income was proved. In any event, considering that the accident has occurred in the year 2006 and the claimant was a robust

youngster, even if some manual work was undertaken by him, he would have earned a sum of Rs. 120/- per day. Therefore, keeping this aspect in view and also making an overall assessment, it would be appropriate to reckon the income at Rs. 3,600/- per month in the facts and circumstances of the instant case. If the said parameters are kept in view and the compensation under the head of loss of income is calculated, the claimant would be entitled to Rs. 97,200/-. Since the Tribunal has awarded Rs. 75,600/- under the said head, the claimant is entitled to enhanced amount of Rs. 21,600/- under the said head.

4. In addition to the said compensation, the claimant is also entitled to the enhanced compensation under the head of pain and suffering, considering the nature of injuries and the period of treatment undergone by him. Therefore, a sum of Rs. 10,000/- is awarded as enhancement under the said head. In addition to the same, considering the nature of the injuries suffered and also keeping in view the nature of disability as accepted by the Tribunal, the amount of Rs. 10,000/- awarded towards loss of amenities is on the lower side. Hence, a further sum of Rs. 10,000/- is awarded under the said head. Therefore, the claimant in all is entitled to enhanced compensation of Rs. 41,600/- with interest at the same rate as awarded by the Tribunal.

5. The enhanced compensation shall be deposited by the first Respondent within a period of six weeks from the date of receipt of a copy of this order. On deposit, the entire enhanced compensation amount shall be disbursed to the claimant.

6. In terms of the above, the appeal stands disposed of. No order as to costs.